

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

ROSALYN KENDALL,]
] Plaintiff,]
] v.] CIVIL ACTION NO. 2:06 CV 676-ID
] USAA INSURANCE AGENCY, INC.]
] Defendant.]

MOTION TO DISMISS

COMES NOW the Defendant designated as USAA Insurance Agency, Inc., whose true and correct name is United Services Automobile Association ("USAA"), and hereby files this motion to dismiss. In support of said motion, Defendant submits the following:

1. In paragraph 12 of the Affirmative Defense section of USAA's Answer, Defendant USAA avers that the Plaintiff's lawsuit is due to be dismissed because this court lacks subject matter jurisdiction.
2. In support of Defendant USAA's Motion to Dismiss, USAA has also filed a Brief setting forth the applicable law in fact.

WHEREFORE, premises considered, USAA respectfully requests that this court enter an order granting its motion to dismiss, as this court lacks jurisdiction over the subject matter of this lawsuit.

Done this August 30, 2006.

Respectfully submitted,

/s/ W. Evans Brittain
W. Evans Brittain
Attorney for USAA

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on this August 30, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Richard F. Horsley, Esq.
Lindsey O. Hill, Esq.
rfhala@cs.com

/s/ W. Evans Brittain _____